IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

CRP.No. 844 of 2007()

AS.9/2004 of ADL.SUB COURT, THALASSERY
OS.736/2000 of ADDL.MUNSIFF COURT, KANNUR

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REVN. PETITIONER: APPELLANT/DEFENDANT

K.SADANANDAN, KUNNANATH HOUSE,
NEAR SANGEETHA TALKIES,
P.O.PAYYAMBALAM, KANNUR.

BY ADV. SRI.V.PREMCHAND

RESPONDENT: RESPONDENT/PLAINTIFF

A.V.PHALGUNAN,
VINOD BHAVANAM, MAKRERI AMSOM,
BAVODE DESOM, P.O.BAVODE, KANNUR.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.844 of 2007

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Dated this the 28th day of September, 2007.

ORDER

This Revision is preferred against the judgment of the Subordinate Judge, Thalassery in A.S.No.9 of 2004. At the outset, I may state that this Court is only exercising the revisional jurisdiction and unless there is patent illegality, irregularity or perversity, this Court is not expected to interfere with the concurrent findings of fact and even in Second Appeal, the Apex Court has held that even if different view is possible, the Second Appellate Court is not competent to substitute its view with regard to the concurrent views of the court below. With this fact, let me allow to analyse the matter and find out whether this can be admitted at this stage.

2. The suit is one for realisation of an amount of Rs.20,000/- alleged to be due from the defendant. It is submitted that in discharge of the liability a cheque was issued.

When the cheque was presented for encashment, it was returned for insufficiency of funds. Notice was issued. A criminal complaint, S.T. No.365 of 1998 was filed. But unfortunately another notice was also sent and therefore the criminal complaint was withdrawn. Thereafter, the present case is instituted.

3. The defendant at least admits that he had borrowed a sum of Rs.7,000/- in December, 1997 and would submit that he had put his signature in a blank cheque and given it as a security. Documentary evidence and oral evidence were adduced in this matter and both the courts below on an appreciation of the evidence, came to the conclusion regarding the genuineness of the claim of the plaintiff. One of the aspects, which was highlighted by the defendant is regarding the non-mentioning of Rs.3,000/-, which was received by the plaintiff. It has to be stated that the said amount was received only after filing of the suit and the cheque issued on that behalf was dishonoured. The plaintiff submitted that he had received Rs.3,000/- in the chief affidavit and only prayed for a decree for the balance amount. So, on analysing the evidence of both the parties, both the courts below arrived at a conclusion. I do not find that there is any

perverse approach or illegality committed by the courts below in appreciating the evidence.

Therefore, this Civil Revision Petition is dismissed.

M.N.Krishnan,
Judge.

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